

## **REMARKS**

### **The Pending Claims and the Amendments to the Claims**

With the entry of the above amendment, Claims 1, 5-10, and 12-24 are pending, with Claims 1, 21, and 23 being the pending independent claims, and Claims 5-10, 12-20, 22, and 24 being the pending dependent Claims. Each of the independent claims has been amended by the addition of the features previously recited in Claims 2, 3, 4, and 11, now canceled. Claims 5 and 6 have been amended to depend from Claim 1 rather than canceled Claim 4, and Claim 12 has been amended to depend from Claim 1 rather than canceled Claim 11. Claim 19 has been amended by deletion of the language “such as poly(oxyethylene)”. Claim 20 has been amended by changing “second web” to “lower web”. While most of the amendments to the claims merely roll into the independent claims various features recited in the dependent claims, the remaining amendments are of a clerical nature. As such, the amendments to the claims contain no new matter. Moreover, the amendments to the claims address the comments made in Paragraphs 1, 2, and 3 of the 11 September Office Action, and Applicants contend that the claims as amended contain no indefinite claim language.

### **The Various §102 Rejections of the Claims**

In Paragraphs 5 & 6, 7 & 8, and 9 & 10 of the 11 September Office Action, various claims are rejected as anticipated by U.S. Patent No. 5,709,897, to Pearlstein (“PEARLSTEIN”), WO 92/04254 to Kinard et al (“KINARD et al”), and U.S. Patent No. 5,716,930, to Kannankeril et al (“KANNANKERIL et al”).

In response, Applicants first address PEARLSTEIN. Applicants contend that PEARLSTEIN does not anticipate any one or more of the pending claims because PEARLSTEIN:

(1) does not disclose the combination of a liquid-impermeable upper web and a liquid-permeable lower web, as recited in Applicants' claims; (2) PEARLSTEIN does not disclose a package having a modified atmosphere. A modified atmosphere is an atmosphere which is different from air. Air contains about 76 weight percent nitrogen and about 23 weight percent oxygen, with the remaining percent including various inert gases, carbon dioxide, and other trace components. Contrary to the statement in Paragraph 6 of the Office Action, a non-evacuated packaging environment does not inherently comprise air which contains 60-80% oxygen. Rather, air contains only 23% oxygen, and 60-80% oxygen is known to suppress microbial growth. As such, it is clear that PEARLSTEIN does not anticipate any one or more of Applicants' claims.

Turning to KINARD et al, Applicants point out that while KINARD et al does disclose a package having an absorbent pad having a lower web of wet strength paper, like PEARLSTEIN, KINARD et al also has no disclosure of a modified atmosphere. Again, air does not inherently comprise 60-80% oxygen, rather just 23% oxygen. Moreover, as amended, Applicants' claims recite the lower web as comprising nonwoven fiber having a hydrophilic composition thereon, the nonwoven fiber comprising at least one member selected from the group consisting of polyolefin, polyamide, and polyester. The disclosure in KINARD et al of a lower web comprising wet strength paper is not a disclosure of a nonwoven fiber comprising polyolefin, polyamide, and/or polyester, not to mention such a nonwoven fiber having a hydrophilic composition thereon. Thus, KINARD et al does not anticipate any one or more of Applicants' claims.

Finally, turning to KANNANKERIL et al, Applicants point out that while KANNANKERIL et al does disclose a package having an absorbent pad having a lower web of tissue paper, like PEARLSTEIN and KINARD et al, KANNANKERIL et al has no disclosure of a modified

atmosphere. In addition, as amended, Applicants' claims recite the lower web as comprising nonwoven fiber having a hydrophilic composition thereon, the nonwoven fiber comprising at least one member selected from the group consisting of polyolefin, polyamide, and polyester. The disclosure in KANNANKERIL et al of a lower web comprising tissue paper is not a disclosure of a nonwoven fiber comprising polyolefin, polyamide, and/or polyester, not to mention such a nonwoven fiber having a hydrophilic composition thereon. Thus KANNANKERIL et al does not anticipate any one or more of Applicants' claims.

#### The Various §103 Rejections of the Claims

In Paragraphs 11-14 of the 11 September Office Action, Claims 11 and 12 are rejected as unpatentable over KINARD et al in view of WO9730909, to Darnett ("DARNETT"). The Office Action relies on KINARD et al for the teaching of a wet strength paper, and acknowledges that KINARD et al does not teach polyolefin or polyester fibers in the lower web, but relies upon DARNETT for the teaching of polyester fibers in a pad. In response, Applicants acknowledge that DARNETT teaches a bottom web comprising fibers containing polyester, more particularly a polyester core having a polyethylene sheath therearound so that the fibers can be heat sealed. However, neither KINARD et al nor DARNETT disclose a modified atmosphere, as recited in Applicants' claims. As such, no prima facie case of obviousness has been made out of any of the pending claims as amended above, as all of the claims, as amended, recite the package as having a modified atmosphere therein.

In Paragraphs 15-18 of the 11 September Office Action, Claims 19 and 20 are rejected as obvious over KINARD et al in view of U.S. Patent No. 4,743,244, to LeKhac ("LeKHAC"). The

Office Action relies upon KINARD et al as set forth above, and states that LeKHAC discloses enhancing the absorbency of paper-based webs by adding block co-polymers of ethylene oxides, including poly(oxyethylene). In response, Applicants note that LeKHAC is directed to water absorbing polymer compositions, and Applicants acknowledge that LeKHAC does disclose the use of water-absorbing resins in meat trays and in nonwoven mats. However, to apply the absorbing polymer composition of LeKHAC to the non-woven paper web of KINARD et al still does not rise to the level of a prima facie case of obviousness of Applicants' claims as amended above, as Applicants' claims recite a modified atmosphere, and as pointed out above, KINARD does not disclose a modified atmosphere. Moreover, neither KINARD et al nor LeKHAC teaches or suggests a lower web as comprising nonwoven fiber having a hydrophilic composition thereon, with the nonwoven fiber comprising at least one member selected from the group consisting of polyolefin, polyamide, and polyester. Thus, KINARD et al in view of LeKHAC does not establish a prima facie case of obviousness of any of Applicants' pending claims, as amended above.

In Paragraphs 19-22 of the 11 September Office Action, various claims are rejected as obvious over U.S. Patent No. 6,221,411, to Sanfilippo et al ("SANFILIPPO et al") in view of U.S. Patent No. 5,250,310, to Fujino et al ("FUJINO et al"). Applicants acknowledge that SANFILIPPO et al teaches a package in which a meat product is on a tray with an absorbent pad between the meat product and the tray, with a lid over the meat product, with the package containing a modified atmosphere, and further that SANFILIPPO et al discloses that the modified atmosphere can be produced by gas flushing or by vacuum and controlled environment gassing. See Col 5 lines 53-53 of SANFILIPPO et al. However, as stated in the Office Action, Applicants agree that SANFILIPPO et al is silent in teaching any particular structure for the absorbent pad.

Applicants also acknowledge that FUJINO et al discloses an evacuated meat package having an absorbent pad having an impermeable upper web and a lower liquid permeable non-woven fibrous web. While the Office Actions states that FUJINO et al discloses "... a lower liquid permeable non-woven fiber web with a hydrophilic composition (item 17)...", Applicants disagree with this statement, and note that in fact FUJINO et al discloses:

The liquid permeable layer 17 has, in addition to water permeability and water resistance, such density (porosity diameters) so that the absorber 16 does not come out therethrough, and its materials which do not have an influence on human bodies are desirable as well as the above gas impermeable film 15. As examples of the liquid permeable sheet, preferable are wet laid nonwoven fabric, spunbonded nonwoven fabric, paper having hydrophilic property, and others which have such strength and elongation as a sheet shape of the liquid absorber 19 can be maintained as it is. The liquid permeable layer 17 can be formed in multiple layers (not shown) so as to ensure the heat sealing property of the liquid absorbing insert 19. [FUJINO et al at Col. 3 line 64 through Col 4 line 9, emphasis added]

The above excerpt from FUJINO et al clearly discloses only paper having hydrophilic property, and does not teach or suggest nonwoven fiber having a hydrophilic composition thereon, with the nonwoven fiber comprising at least one member selected from the group consisting of polyolefin, polyamide, and polyester. That is, to the extent that FUJINO et al teaches the use of a hydrophilic property, it is only for paper, and not for nonwoven fibers containing polyolefin, polyamide, and/or polyester. Thus, Applicants contend that SANFILIPPO et al in view of FUJINO et al also does not rise to the level of a prima facie case of obviousness for any one or more of Applicants' claims, as amended above, as neither SANFILIPPO et al nor FUNINO et al teaches or suggests a nonwoven web containing fibers comprising polyolefin, polyamide, and/or polyester, with the fibers having a hydrophilic composition thereon.

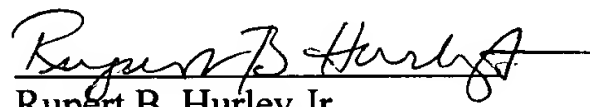


Finally, In Paragraphs 23-26 of the 11 September Office Action, Claims 23 and 24 are rejected as obvious over SANFILIPPO et al in view of FUJINO et al. In response to this rejection, Applicants again rely on the arguments set forth in the paragraph immediately above, i.e., that SANFILIPPO et al in view of FUJINO et al does not rise to a prima facie case of obviousness of Claims 23 or 24, as amended above, because both of these claims recite the lower web of the absorbent pad as comprising a nonwoven fiber having a hydrophilic composition thereon, with the nonwoven fiber comprising at least one member selected from the group consisting of polyolefin, polyamide, and polyester.

Conclusion

Accordingly, Applicants respectfully request reconsideration of the patentability of the claims, with a view towards allowance.

Respectfully Submitted,

  
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